

206.19 Rules.

The department shall, by rule, after public hearing following due notice:

1. Declare as a pest any form of plant or animal life or virus which is unduly injurious to plants, humans, domestic animals, articles, or substances.

2. Determine the proper use of pesticides including but not limited to their formulations, times and methods of application, and other conditions of use.

3. Determine in cooperation with municipalities, the proper notice to be given by a commercial or public applicator to occupants of adjoining properties in urban areas prior to or after the exterior application of pesticides, and establish a schedule to determine the periods of application least harmful to living beings. The rules shall provide that a commercial or public applicator must provide notice only if an occupant requests that the commercial or public applicator provide the occupant notice in a timely manner prior to the application. The request shall include the name and address of the occupant, a telephone number of a location where the occupant may be contacted during normal business hours and evening hours, and the address of each property that adjoins the occupant's property. The notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier. Municipalities shall cooperate with the department by reporting infractions and in implementing [this subsection](#).

4. Adopt rules providing guidelines for public bodies to notify adjacent property occupants regarding the application of herbicides to noxious weeds or other undesirable vegetation within highway rights-of-way.

5. a. Establish, assess, and collect civil penalties for a violation of a provision in [this chapter](#) or a rule adopted pursuant to [this chapter](#) by a commercial applicator or private applicator. In determining the amount of a civil penalty to be assessed for a violation, the department shall consider all of the following factors:

(1) The willfulness of the violation.

(2) The actual or potential danger of injury to the public health or safety, or damage to the environment caused by the violation.

(3) The actual or potential cost of the injury or damage caused by the violation to the public health or safety, or to the environment.

(4) The actual or potential cost incurred by the department in enforcing [this chapter](#) and rules adopted pursuant to [this chapter](#) against the violator.

(5) The remedial action required of the violator.

(6) The violator's previous history of complying with orders or decisions of the department.

b. The amount of the civil penalty shall not exceed five hundred dollars for each offense.

c. (1) A person subject to a civil penalty pursuant to [this subsection](#) may submit an appeal to the department. The appeal shall be referred to an administrative law judge for hearing as a contested case pursuant to [chapter 17A](#).

(2) This paragraph does not apply to a license revocation proceeding. This paragraph does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of [this chapter](#) for criminal prosecution, or for an action involving a stop order issued pursuant to [section 206.16](#).

(3) An available response by the department may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential pursuant to [section 22.7](#).

[C66, §206.6; C71, §206.6, 206.12; C73, §206.12, 455B.102; C75, 77, §206.19, 455B.102; C79, §206.19, 455B.132; C81, §206.19]

87 Acts, ch 177, §2; 87 Acts, ch 225, §224; 88 Acts, ch 1118, §2; 93 Acts, ch 130, §1; 95 Acts, ch 172, §3; 2009 Acts, ch 41, §263; 2021 Acts, ch 28, §2; 2022 Acts, ch 1152, §11; 2024 Acts, ch 1170, §251